Kerala Gazette No. 25 dated 20th May 1978.

PART I

GOVERNMENT OF KERALA

Labour and Housing (A) Department

NOTIFICATION

G. O. (Rt.) No. 592/78/L&H. *Dated, Trivandrum, 12th April* 1978.

The award of the Labour Court, Quilon in respect of the dispute between the Managing Partner, Nauka Beedi Works Bazaar Road, Cochin 2. and their workmen represented by the Workmen of the above concern reprsesented by the Secretary, Ernakulam District Beedi Thozhilali Union, c/o INTUC Office, Mattancherry, Cochin-2. received by Government on 5-4-1978 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

I. Gopalan,

Joint Secretary.

In the Labour Court Quilon

Dated this the 14th day of March, 1978

Present :

Shri ALFRED DANIEL, B. A., B. L.,

Presiding Officer

In

INDUSTRIAL DISPUTE No. 43/75.

Between

The Managing Partner, Nauka Beedi Works, Bazaar Road, Cochin-2

And

The workmen of the above concern represented by the Secretary, Ernakulam District Beedi Thozhilali Union, c/o. INTUC office, Mattancherry, Cochin-2

Representations :

K. M. Seyd Mohammed, Advocate, Ernakulam. — For *the Management*

Sri M. V. Joseph, Advocate, Ernakulam. — For *the Union*

AWARD

The above Industrial Dispute between the Managing partner, Nauka Beedi Works, Bazaar Road, Cochin-2 and the workmen of the above concern represented by the Secretary, Ernakulam District Beedi Thozhilali Union, c/o. INTUC office, Mattancherry, Cochin-2 was referred by the Kerala Government to this court for adjudication under Section 10 (1) (C) of the Industrial Disputes Act of 1947 (Central Act XIV of 1947) by their Order in G. O. Rt. No. 952/75/LBR dated 30-8-1975.

The issue referred for adjudication is "Justifiability or otherwise of the denial of employment to Sri Kunju Muhammed".

On notice issued from this court both parties appeared and filed their respective statements.

The case of the Union as per their claim statement is, briefly this: The management is engaged in manufacture and sale of Beedi by name Nauka Beedi. The manufacturing process is carried on at two places, one at Cochin and the other at Vadanapally in Trichur. Sri Kunju Mohammed had 5 years and odd continuous service with the management at Cochin as a Beedi Maker. He was denied employment from 8-3-1974 without assigning any reason. He was not given any notice or notice pay. He was earning an average wages of Rs. 6 per day at the time when he was denied employment. The denial of employment is only a victimisation for union activities of the worker. Sri Kunju Mohammed was the Convenor of the unit started some 6 months back of his dismissal and so the management was trying to sack him out from the management concern. After the denial of employment he is without work. Hence an award has to be passed to reinstate him with back wages.

The management has filed a written statement contending mainly: The management has its business at Cochin alone and not at Vadanapally. The business was started in 1972 under a partnership deed executed on 12-9-1972 among 9 persons. The business is not prospering. Kunju Muhammed joined the management concern as a Beedi Maker on 15-1-1973. Beedi leaves and sukka were given to Kunju Muhammed, just like to any other beedi maker, and after turning them into beedies, the beedies were returned to the management and he is paid as to others. The Forum for making beedies is outside, at the choice of the beedi maker. The responsibility of the management is only to supply the materials and to pay the wages when the beedies are finished and returned to the management. The management has no place for manufacturing the beedies; the place of sitting and making beedies is left to the Beedi makers. The Managing Partner is occupying small building and it is used as his residence and office. Out of personal considerations and friendship some beedi makers are given permission to keep their boxes inside that building. On 7-3-1974, fifteen bundles of beedi were detected from the personal box of Mr. Kunju Muhammed. He admitted it was theft and he requested for an excuse. So the management did not take any legal action. He was also not dismissed from the work, nor employment was denied to

him. The only thing done was to refuse permission to keep his personal box inside the Managing Partner's building. But thereafter Kunju Muhammed did not turn up for work; he was going to ships for work in the Loose-cargo. He is also making beedies in the "Cochin Brothers Beedi", M. A. S. S. Road, Cochin-2. Since there was no denial of employment this reference is illegal, and this court has no jurisdiction to entertain this reference. Sri Kunju Muhammed is always at his liberty to come and do his work. The allegation that there was victimisation against Kunju Muhammed is false and baseless. The claim of the union has to be dismissed with costs.

The union has filed a rejoinder traversing the contentions is the written statement.

The case stood posted for evidence on ever so many days. But no evidence was adduced by either party. On 25-10-1977 the management filed a statement stating to the effect that Kunju Muhammed left India in February 1977 and he is working as an employee in Oman, an Arabian country, in a company by name T. A. A. Slamsogese earning more than Rs. 2500 per month. The case was posted for objections to 23-11-1977 and then to 27-12-1977 affording an opportunity for the union to verify the facts given in the statement. But no objections were filed. Further the union backed out from proceeding with their case and their counsel also finally gave up his engagement.

In the above circumstances I am left with no option, but to hold that the claim put forward by the union cannot stand.

In the result I find that there is no Industrial Dispute between the parties for adjudication by this court and I pass an award accordingly.

This award will take effect on the expiry of 30 days of its publication in the Kerala Government Gazette as enjoined in Section 17 A (1) of the Industrial Disputes Act.

ALFRED DANIEL,
Presiding Officer.